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6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON**
8 **AT SEATTLE**

9 SAUL LARA-PEREZ,

10 Petitioner,

11 v.

12 A. NEIL CLARK, Field Office Director, U.S.
13 Immigration and Customs Enforcement,

14 Respondent.

NO. C09-1696-RAJ-JPD

REPORT AND
RECOMMENDATION


15 On November 30, 2009, petitioner Saul Lara-Perez submitted to this Court for review a
16 petition for writ of habeas corpus under 28 U.S.C. § 2241. (Dkt. No. 6.) He requests that this
17 Court order his release from custody on conditions or reasonable bond, arguing that “such
18 custody violates the due process rights of the Petitioner.” (Dkt. No. 6 at 1.) Petitioner also
19 submitted a motion to enjoin the U.S. Department of Homeland Security (“DHS”) from further
20 detaining him. (Dkt. No. 11.) On January 30, 2010, respondent filed a Return and Motion to
21 Dismiss which is noted for consideration on February 26, 2010. (Dkt. No. 13.) Petitioner did
22 not file any response.
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24 On February 26, 2010, however, respondent submitted a reply brief and documentation
25 indicating that petitioner was removed from the United States to Mexico on January 30, 2010,
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1 and is no longer in immigration custody. (Dkt. No. 15, Ex. A.) Respondent asserts that because
2 petitioner has been accorded all of the relief sought in his habeas petition – release from
3 immigration custody – his petition for writ of habeas corpus is now moot and should be
4 dismissed. *Id.* Respondent notes that on February 8, 2010, petitioner attempted to reenter the
5 United States at the San Ysidro Port of Entry using fraudulent documents and was arrested and is
6 detained at the San Diego Metropolitan Correctional Center pending charges of violation of 8
7 U.S.C. § 1326. *Id.* Respondent avers that petitioner is not in immigration custody at this time
8 and that his habeas petition remains moot and should be dismissed. *Id.*
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10 For a federal court to have jurisdiction, “an actual controversy must exist at all stages of
11 the litigation.” *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9th Cir. 2002).
12 “When a controversy no longer exists, the case is moot.” *Id.* Because petitioner is no longer
13 detained by ICE, his petition for writ of habeas corpus seeking release from immigration
14 detention has become moot and should be dismissed. *See Abdala v. I.N.S.*, 488 F.3d 1061, 1065
15 (9th Cir. 2007); *see also Cooney v. Edwards*, 971 F.2d 345, 346 (9th Cir. 1992) (holding that the
16 District Court properly dismissed plaintiff’s claims that had become either moot or unripe).
17 Accordingly, I recommend that this action be dismissed as moot. A proposed Order
18 accompanies this Report and Recommendation.
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20 DATED this 4th day of March, 2010.

21 
22 JAMES P. DONOHUE
23 United States Magistrate Judge
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